

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2008-85

Manuel William Matos  
3833 Leland Street  
San Diego, CA 92106

Registered Nurse License No. 629256

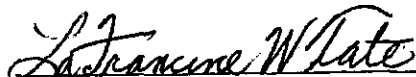
Respondent.

**DECISION**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on February 19, 2008.

IT IS SO ORDERED this February 19, 2008.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 SHERRY L. LEDAKIS, State Bar No. 131767  
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4 California Department of Justice  
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8 Attorneys for Complainant  
9

10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-85

13 MANUEL WILLIAM MATOS  
3833 LeLand Street  
14 San Diego, CA 92106

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15 Registered Nurse License No. RN#629256

16 Respondent.  
17

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
19 proceeding that the following matters are true:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H, R.N (Complainant) is the Executive Officer of  
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
24 by Sherry L. Ledakis, Deputy Attorney General.

25 2. Manuel William Matos, RN (Respondent) is represented in this  
26 proceeding by attorney A. Roxane Bukowski, Esq., whose address is 402 W. Broadway, Ste. 400  
27 San Diego, CA 92101.

28 ///

3. On or about November 17, 2003, the Board of Registered Nursing issued Registered Nurse License No. RN#629256 to Manuel William Matos, RN. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2008-85, and will expire on February 28, 2009, unless renewed.

## JURISDICTION

4. Accusation No. 2008-85 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 6, 2007. A copy of Accusation No. 2008-85 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, discussed with counsel, and fully understands the charges and allegations in Accusation No. 2008-85. Respondent also has carefully read, discussed with counsel, and fully understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2008-85, agrees that cause exists for discipline and hereby surrenders his Registered Nurse License No. RN#629256 for the Board's formal acceptance.

/// /// ///

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Registered Nurse License without further process.

## CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

## OTHER MATTERS

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

## ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. RN#629256,  
issued to Respondent Manuel William Matos, RN is surrendered and accepted by the Board of  
Registered Nursing.

1. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline

/ / /

against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Registered Nurse in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board both his pocket license and wall certificate on or before the effective date of the Decision and Order.

4. Respondent fully understands and agrees that if he ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2008-85 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. Respondent shall not apply for licensure or petition for reinstatement for two (2) years from the effective date of the Board's Decision and Order.

6. If and when respondent's license is reinstated, he shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$2,923.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

## ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, A. Roxane Bukowski, Esq. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender

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11/02/2007 11:33 Dept. of Justice → 94465635

NO. 332 0003

1 of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
2 Decision and Order of the Board.

3 DATED: 10/3/2007

4  
5   
6 Manuel William Matos,  
Respondent

7  
8 I have read and fully discussed with Respondent Manuel William Matos the terms  
9 and conditions and other matters contained in this Stipulated Surrender of License and Order. I  
10 approve its form and content.

11 DATED: 10/3/2007

12  
13   
14 A. ROXANE BUKOWSKI, ESQ.  
Attorney for Respondent

15  
16 **ENDORSEMENT**

17 The foregoing Stipulated Surrender of License and Order is hereby respectfully  
18 submitted for consideration by the Board of Registered Nursing.

19 DATED: 10/3/07

20 EDMUND O. BROWN JR., Attorney General  
of the State of California

21 LINDA K. SCHNEIDER  
22 Supervising Deputy Attorney General

23   
24 SHERRY L. LEDAKIS  
25 Deputy Attorney General

26 Attorneys for Complainant

**Exhibit A**  
**Accusation No. 2008-85**

EDMUND G. BROWN JR., Attorney General  
of the State of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
SHERRY L. LEDAKIS, State Bar No. 131767  
Deputy Attorney General  
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San Diego, CA 92186-5266  
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Attorneys for Complainant

**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2008-85

MANUEL WILLIAM MATOS, RN  
3833 LeLand Street  
San Diego, CA 92106  
Registered Nurse No. RN#629256

**ACCUSATION**

Respondent.

Complainant alleges:

**PARTIES**

1. Ruth Ann Terry, M.P.H., R.N (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing.

2. On or about November 17, 2003, the Board issued Registered Nurse Number License RN#629256 to Manuel William Matos, RN (Respondent). Said license will expire on February 29, 2009, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board of Registered Nursing (Board), under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.



1                   4.       Section 2750 of the Business and Professions Code ("Code") provides, in  
2 pertinent part, that the Board may discipline any licensee, including a licensee holding a  
3 temporary or an inactive license, for any reason provided in Article 3 (commencing with section  
4 2750) of the Nursing Practice Act.

5                   5.       Section 2764 of the Code provides, in pertinent part, that the expiration of  
6 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
7 against the licensee or to render a decision imposing discipline on the license.

8                   6.       Section 490 of the Code states:

9                   A board may suspend or revoke a license on the ground that the licensee  
10 has been convicted of a crime, if the crime is substantially related to the  
11 qualifications, functions, or duties of the business or profession for which the  
12 license was issued. A conviction within the meaning of this section means a plea  
13 or verdict of guilty or a conviction following a plea of nolo contendere. Any  
14 action which a board is permitted to take following the establishment of a  
conviction may be taken when the time for appeal has elapsed, or the judgment of  
conviction has been affirmed on appeal, or when an order granting probation is  
made suspending the imposition of sentence, irrespective of a subsequent order  
under the provisions of Section 1203.4 of the Penal Code.

15                  7.       Section 493 of the Code states:

16                  Notwithstanding any other provision of law, in a proceeding conducted by  
17 a board within the department pursuant to law to deny an application for a license  
18 or to suspend or revoke a license or otherwise take disciplinary action against a  
19 person who holds a license, upon the ground that the applicant or the licensee has  
20 been convicted of a crime substantially related to the qualifications, functions, and  
21 duties of the licensee in question, the record of conviction of the crime shall be  
conclusive evidence of the fact that the conviction occurred, but only of that fact,  
and the board may inquire into the circumstances surrounding the commission of  
the crime in order to fix the degree of discipline or to determine if the conviction  
is substantially related to the qualifications, functions, and duties of the licensee in  
question.

22                  As used in this section, 'license' includes 'certificate,' 'permit,'  
'authority,' and 'registration.'

23                  8.       Section 2761 of the Code states:

24                  The board may take disciplinary action against a certified or licensed nurse  
25 or deny an application for a certificate or license for any of the following:

26                  . . . .

27                  (f) Conviction of a felony or of any offense substantially related to  
28 the qualifications, functions, and duties of a registered nurse, in which event the  
record of the conviction shall be conclusive evidence thereof.

1  
2           9.       Section 2762 of the Code states:

3           In addition to other acts constituting unprofessional conduct within the  
4           meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct  
5           for a person licensed under this chapter to do any of the following:

6                   (a) Obtain or possess in violation of law, or prescribe, or except as  
7                   directed by a licensed physician and surgeon, dentist, or podiatrist administer to  
8                   himself or herself, or furnish or administer to another, any controlled substance as  
9                   defined in Division 10 (commencing with Section 11000) of the Health and Safety  
10                  Code or any dangerous drug or dangerous device as defined in Section 4022.

11                  (b) Use any controlled substance as defined in Division 10  
12                  (commencing with Section 11000) of the Health and Safety Code, or any  
13                  dangerous drug or dangerous device as defined in Section 4022, or alcoholic  
14                  beverages, to an extent or in a manner dangerous or injurious to himself or herself,  
15                  any other person, or the public or to the extent that such use impairs his or her  
16                  ability to conduct with safety to the public the practice authorized by his or her  
17                  license.

18                  (c) Be convicted of a criminal offense involving the prescription,  
19                  consumption, or self-administration of any of the substances described in  
20                  subdivisions (a) and (b) of this section, or the possession of, or falsification of a  
21                  record pertaining to, the substances described in subdivision (a) of this section, in  
22                  which event the record of the conviction is conclusive evidence thereof.

23                  ....

24                  (e) Falsify, or make grossly incorrect, grossly inconsistent, or  
25                  unintelligible entries in any hospital, patient, or other record pertaining to the  
26                  substances described in subdivision (a) of this section.

27                  ....

28           10.       California Code of Regulations, title 16, section 1444, states:

          A conviction or act shall be considered to be substantially related to the  
          qualifications, functions or duties of a registered nurse if to a substantial degree it  
          evidences the present or potential unfitness of a registered nurse to practice in a  
          manner consistent with the public health, safety, or welfare. Such convictions or  
          acts shall include but not be limited to the following:

          ....

          (c) Theft, dishonesty, fraud, or deceit.

          ....

          11.       Section 482 of the Code states:

          Each board under the provisions of this code shall develop criteria to  
          evaluate the rehabilitation of a person when:

1 (a) Considering the denial of a license by the board under Section  
2 480; or

3 (b) Considering suspension or revocation of a license under  
4 Section 490.

5 Each board shall take into account all competent evidence of  
6 rehabilitation furnished by the applicant or licensee.

7 12. California Code of Regulations, title 16, section 1445, states:  
8 ...

9 (b) When considering the suspension or revocation of a license on  
10 the grounds that a registered nurse has been convicted of a crime, the board, in  
11 evaluating the rehabilitation of such person and his/her eligibility for a license will  
12 consider the following criteria:

13 (1) Nature and severity of the act(s) or  
14 offense(s).

15 (2) Total criminal record.

16 (3) The time that has elapsed since  
17 commission of the act(s) or offense(s).

18 (4) Whether the licensee has complied with any  
19 terms of parole, probation, restitution or any other sanctions  
20 lawfully imposed against the licensee.

21 (5) If applicable, evidence of expungement  
22 proceedings pursuant to Section 1203.4 of the Penal Code.

23 (6) Evidence, if any, of rehabilitation submitted by  
24 the licensee.

25 13. Section 125.3 of the Code provides, in pertinent part, that the Board may  
26 request the administrative law judge to direct a licensee found to have committed a violation or  
27 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
28 and enforcement of the case.

#### 29 FIRST CAUSE FOR DISCIPLINE

30 (September 5, 2007 Conviction for Grand Theft and Possession of Controlled Substances)

31 14. Grounds exist to revoke Respondent's license under sections 490, 493,  
32 2761(f), and 2762(c), of the Code for a criminal offense substantially related to his qualifications  
33 as a registered nurse. On or about September 5, 2007, in the San Diego Superior Court, in a case

1 entitled *People v. Manuel William Matos*, Case No. CD207237, respondent pled guilty to  
2 violations of Penal Code section 487(b)(3) (Grand Theft by Employee) and Health and Safety  
3 Code section 11377 (Possession of a Controlled Substance). The circumstances of the  
4 conviction are as follows:

5           15. In June of 2006, respondent was a "traveling" nurse employed by Sharp  
6 Metropolitan Medical Campus (SMMC) of San Diego on a temporary basis through American  
7 Mobile Nursing Healthcare. He worked out of the float pool on the 6<sup>th</sup> and 7<sup>th</sup> floors of the  
8 hospital. A required procedure at SMMC is a patient pain assessment to determine the  
9 effectiveness of the pain medications being administered to the patients. During this process, it  
10 was discovered that several patients had not been given the prescribed medications but the  
11 medication administration records indicated the patients had received the prescribed medications.  
12 These discrepancies were investigated and respondent was identified as the nurse involved in  
13 these cases. An audit of the Pyxis MedStation found several incidents of suspected diversion of  
14 controlled substances.

15           16. On July 20, 2006, an investigatory meeting was held at SMMC with  
16 respondent where he was confronted with the diversion of many controlled substances. At this  
17 meeting, respondent admitted that he had withdrawn 10 mg. of morphine for a patient with a pain  
18 assessment of zero, charted that he administered this medication, but in reality he had kept the  
19 medication for himself. He was terminated on this date.

20           17. On July 24, 2006, M.R., a nursing manager at SMMC, filed a complaint  
21 with the Board of Registered Nursing. She alleged that respondent failed to chart his  
22 administration of narcotics after he obtained them from the Pyxis MedStation; that he  
23 consistently obtained higher doses of medication not ordered with no wasting documented; and  
24 that one patient was assessed by a night nurse as having no pain and never asked for pain  
25 medication during the day, yet respondent obtained pain medications on five separate occasions  
26 on the same day for this patient without charting the administration of any pain medications.  
27 Further, she alleged that on July 12, 2006, respondent had a patient with a pain scale of zero,  
28 nevertheless, respondent obtained 10 mg. of morphine for this patient but nothing was

1 documented as being charted or wasted. M.R. alleged respondent's pattern of diversion was to  
2 take Morphine, Versed, Percocet and Xanax.

3 18. On May 25, 2007, respondent Matos was interviewed by Donald J.  
4 Continelli, Investigator for the California Division of Investigations for the Department of  
5 Consumer Affairs at the Glenbrook Unit of San Diego Hospice. Respondent admitted to  
6 Investigator Continelli that he had been terminated from SMMC for charting medications that he  
7 had not given to the patients. He admitted to using the medications himself, and said he  
8 occasionally self injected at work but most often he took the drugs at home. He admitted to  
9 stealing Morphine, Percocet (Oxycodone), Xanax and Midazolam from the SMMC Pyxis  
10 MedStation. He denied any knowledge or participation in the theft of drugs from the Glenbrook  
11 Unit. He is no longer employed at the San Diego Hospice.

12 19. On or about June 18, 2007, a Felony Complaint was filed against  
13 respondent Manuel Matos based upon his drug diversion activities at SMMC, alleging grand  
14 theft, three counts of possession of a controlled substance and obtaining prescription medications  
15 by fraud and deceit.

16 20. On September 5, 2007, respondent entered into a plea agreement whereby  
17 he pled guilty to Grand Theft and Possession of Controlled Substances. He agreed to three years  
18 of summary probation on several terms and conditions one of which was to surrender his nursing  
19 license to the Board.

20 21. Respondent's formal sentencing is set for October 3, 2007.

21 SECOND CAUSE FOR DISCIPLINE

22 (Unlawful Use and Possession of Controlled Substances)

23 22. Respondent is subject to disciplinary action under sections 2762(a) and  
24 2762(b) in that he obtained, possessed and used dangerous drugs to an extent or in a manner  
25 dangerous or injurious to himself or any other person, or the public or to the extent that such use  
26 impaired his ability to conduct with safety to the public the practice of registered nursing, as  
27 more particularly set forth above in paragraphs 13, through and including paragraph 20.

28 ///

1 THIRD CAUSE FOR DISCIPLINE

2 (Making of Grossly False or Incorrect Entries in Medical Records)

3 23. Respondent is subject to disciplinary action under sections 2762(e) in that  
4 he falsified, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
5 hospital, patient, or other record pertaining to the administration of controlled substances, as  
6 more particularly set forth above in paragraphs 13, through and including paragraph 20.

7 PRAYER

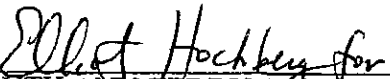
8 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
9 alleged, and that following the hearing, the Board issue a decision:

10 1. Revoking or suspending Registered Nurse Number RN#629256, issued to  
11 Manuel William Matos.

12 2. Ordering Manuel William Matos, RN to pay the Board the reasonable  
13 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
14 Code section 125.3;

15 3. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: 9/13/07

18  
19   
20 RUTH ANN TERRY, M.P.H., R.N.  
21 Executive Officer  
22 Board of Registered Nursing  
23 State of California  
24 Complainant